

No. 9(1)81-6Lab./15229.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s The Sonapat Cooperative Sugar Mills Ltd., Sonapat.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

References Nos. 370 and 375 of 1980

between

SARVSHRI BARAHAM PARKASH AND BHIR SINGH, WORKMEN AND THE
MANAGEMENT OF M/S. THE SONEPAT COOPERATIVE SUGAR
MILLS, LIMITED, SONEPAT

Shri Ram Sarup Lakra, for the workmen.

Shri V.D. Sharma, for the respondent management.

AWARD

These references Nos. 370 and 375 of 1980 have been referred to this Court by the Hon'ble Governor of Haryana,—vide his order Nos. ID/58590, dated 1st December, 1980, and ID/SPT, 74/80/40159, dated 5th August, 1980, under section 10 (i) (c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Sri Baraham Parkash and Bhir Singh, workmen and the respondent management of M/s. The Sonapat Cooperative Sugar Mills, Limited, Sonapat. The term of the reference was:—

Whether the termination of services of Sarvshri Baraham Parkash and Bhir Singh were justified and in order? If not, to what relief are they entitled?

On receiving these references notices were sent to the parties, who appeared and filed their pleadings. According to the demand notice and claim statement the case of the workmen is that Shri Baraham Parkash joined the services on 5th April, 1977 as Beldar at salary of Rs 210 per mensem on a permanent job and was terminated without giving any reason or notice on 5th February, 1980 and Shri Bhir Singh joined the respondent on 5th April, 1976 as farm Beldar and terminated on 22nd July, 1979 without giving any notice or reason to the workman. The order of termination are illegal and without any justification. So the workman is entitled for reinstatement with full back wages and continuity of service.

According to written statement the case of the respondent is that these employees were never employed against a permanent post as Beldar on the Mill farm. There is no permanent post of Beldar in the farm. They were taken on casual labour on daily wages as and when required and the employees were not regular employees of the respondent and the services were not terminated by the respondent as they were not regular employees.

On the pleadings of the parties. The issues were framed:—

- (1) Whether the termination of services of the workmen is proper, justified and in order? If not, to what relief are they entitled?
- (2) Relief?

At the stage of respondent evidence on 15th September, 1981 both the parties pray for consolidation of these two references of the same nature and are against the same management. Their request was acceded and order for consolidation and again ordered that the evidence shall be recorded in Reference No. 370 of 1980 of Shri Baraham Parkash's case. My findings issueswise are as under:—

Issue No. 1

The respondent's representative argued that the claimants are not employed at a regular basis by the respondent as there is no provision with the respondent to employ farm beldar on a permanent basis. The beldars are engaged on daily wages as and when

they are required. They are casual labourers and they cannot claim their services in this way. There was no appointment letter issued to them and no increment or other facilities provided to them as the other permanent employees get in the respondent factory. So the claimants were engaged when their services were required and there was no attendance register for these employees. The attendance is marked by the labour supervisor on a temporary register maintained by him as stated by the respondent witness MW-1 Shri Jai Singh P.F. Clerk and they were paid according to the days worked by the workmen. So they cannot claim their reinstatement in these circumstances.

The workmen's representative argued that the claimants joined the services in the years 1976, 1977, respectively and worked continuously for 3 or 4 years without any brake. The respondent terminated the services of Shri Baraham Parkash claimant in the year 1979 on which he made a complaint to the Deputy Labour Commissioner, Sonapat and there was a settlement between the parties which is Ex. W-1. According to this settlement the respondent had agreed to employ the workmen from 8th September, 1979. The claimant made another complaint to the Labour Inspector which is Ex. W-2, dated 21st November, 1979 for implementation of that settlement. He again gave in writing to the General Manager for the implementation of that settlement which is Ex. W-3 and after this the respondent gave the service or employed the workman at the same post with continuity of service. According to settlement Ex. W-1 the workman attended his services and terminated on 5th February, 1981 without giving any notice or reason. Same is the case of Bhair Singh. He remained in continuous service of the respondent and after continuous service he was also terminated on 22nd July, 1979 without giving any reason. The claimant called the respondent clerk with some records as casual labour. Shri Banwari Lal time clerk came as witness as WW-2 and stated that he has not received the whole record of the workman as it is not available in the factory. He further argued that the respondent did not want to produce the record of the workman before the court and they are withholding it intentionally which shows and presumption goes in favour of the workman and against the respondent for withholding the record called by the respondent. If the claimants were not permanent employees then there would be no settlement between the parties as Ex. W-1. As when there is an agreement between the parties under section 12 (3) of Industrial Disputes Act which clears the whole positions that the workmen were permanent employees of the respondent and their services were terminated illegally and without any order. In these circumstances, the workmen are entitled for reinstatement with continuity of services and with full back wages.

After hearing the arguments of both the parties, and going through the file, I am of the view, that the workmen were working continuously for the last four years without any brake. Though there is no permanent record maintained by the respondent in this respect. Yet the some record is produced before me that they were in service for such period and when there is a permanent farm with the sugar mill which requires the maintenance throughout the year and the workmen worked in that farm and the respondent could not rebut the evidence filed by the workmen in this respect. So I feel that the termination of these workmen is not justified and proper. They are reinstated with full back wages and continuity of service. No order as to costs.

This be read in answer to these references.

Dated 16th December, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana. Faridabad.

Endorsement No. 3510, dated 23rd December, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.